

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LYNN THOMPSON,

V.

Plaintiff,

TESLA MOTORS, INC., and
ONQGLOBAL, INC.,

Defendants.

Case No. 3:21-cv-00238-HDM-WGC

ORDER

TESLA MOTORS, INC., and
ONQGLOBAL, INC.,

Defendants.

11 Before the court is a motion to stay filed by defendant Tesla
12 Motors, Inc. (ECF No. 13). Co-defendant OnQGlobal has joined the
13 motion. (ECF No. 14). The plaintiff, Lynn Thompson, has opposed
14 (ECF No. 15), and Tesla has replied (ECF No. 17).

15 The complaint, filed on May 21, 2021, asserts a single claim
16 of whistleblower retaliation pursuant to the Sarbanes-Oxley Act,
17 18 U.S.C. § 1514A. The plaintiff's claim arises from his allegation
18 that in 2018, when he was employed as an electrical superintendent
19 in the Tesla Gigafactory, he was terminated after reporting the
20 theft of copper wires from the plant. He alleges his termination
21 also followed his reporting that Tesla had awarded non-union
22 contracts in violation of its agreement with the State of Nevada.

23 In October 2019, the plaintiff filed a state-court complaint
24 asserting several claims against Tesla and OnQGlobal. The
25 defendants filed a motion to compel arbitration, which the state
26 court granted. The arbitration hearing is currently set to take

1 place on January 12, 2022, and January 13, 2022. While the
2 defendants concede that the claim in this action is not arbitrable,
3 they nevertheless ask this court to stay proceedings until the
4 related arbitration is complete.

5 The court has the inherent power to control its docket and
6 calendar and may, in the exercise of its sound discretion, stay an
7 action pending resolution of independent proceedings that bear
8 upon the case if it is "efficient for its own docket and the
9 fairest course for the parties." *Mediterranean Enterprises, Inc.*
10 v. *Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983); *Leyva v.*
11 *Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir.
12 1979); *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). "This
13 rule applies whether the separate proceedings are judicial,
14 administrative, or arbitral in character, and does not require
15 that the issues in such proceedings are necessarily controlling of
16 the action before the court." *Mediterranean Enterprises*, 708 F.2d
17 at 1465.

18 In deciding whether to stay an action, "the competing
19 interests which will be affected by the granting or refusal to
20 grant a stay must be weighed," including "the possible damage which
21 may result from the granting of a stay, the hardship or inequity
22 which a party may suffer in being required to go forward, and the
23 orderly course of justice measured in terms of the simplifying or
24 complicating of issues, proof, and questions of law which could be
25 expected to result from a stay." *CMAX*, 300 F.2d at 268.

26 The claims in the pending arbitration arise from the same
27 facts and circumstances underlying this case and are thus closely
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1 related to the plaintiff's claim in this action. The arbitrator's
2 conclusions may therefore be useful, if not dispositive, of issues
3 in this action. See *Clark v. Bear Stearns & Co.*, 966 F.2d 1318,
4 1321 (9th Cir. 1992) ("An arbitration decision can have res
5 judicata or collateral estoppel effect. . . ."). The arbitration
6 will begin in less than three months, and plaintiff has not
7 identified what prejudice, if any, such a brief stay of this action
8 might cause. The court likewise can ascertain no significant
9 prejudice, particularly in light of the fact the plaintiff waited
10 more than eighteen months after filing his underlying state court
11 complaint to initiate the instant action, and once having filed
12 this action, waited several more months before seeking waivers of
13 service from the defendants. Accordingly, given the similarity of
14 issues in both proceedings and the minimal, if any, prejudice to
15 the plaintiff of a brief stay, the court concludes, in the exercise
16 of its sound discretion, that a stay would be appropriate in this
17 matter.

18 In accordance with the foregoing, the defendants' motion to
19 stay (ECF No. 13) is GRANTED. This action is therefore STAYED
20 pending completion of the related arbitral proceeding or until
21 further order of the court.

22 IT IS SO ORDERED.

23 DATED: this 3rd day of November, 2021.

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26 UNITED STATES DISTRICT JUDGE
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